

**Before The
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
AT&T Petition to Launch a Proceeding)	GN Docket No. 12-353
Concerning the TDM-to-IP Transition)	
)	
Petition of the National Telecommunications)	
Cooperative Association for a Rulemaking)	
To Promote and Sustain the Ongoing)	
TDM-to-IP Evolution)	

REPLY COMMENTS OF INTELIGENT

Neutral Tandem, Inc., d/b/a Inteligent (“Intelligent”) respectfully submits these reply comments regarding the above-referenced docket.¹

The comments in this proceeding make clear that issues relating to interconnection between carriers during and after the IP transition are of paramount importance. AT&T and other carriers support a deregulatory approach to interconnection, arguing that incorporation of legacy interconnection requirements will stifle the IP transition.² Numerous carriers, however, have expressed concern that AT&T and other legacy incumbent carriers have either refused to interconnect on an IP basis or offered to do so only on unreasonable terms, and they argue that abdication of legacy interconnection obligations threatens their ability to compete.³ Some

¹ Neutral Tandem is the leading competitive (*i.e.*, non-ILEC) provider of tandem services in the United States. Neutral Tandem provides competitive tandem services in 189 of the 192 LATAs in the continental United States, and in Puerto Rico. Neutral Tandem recently adopted the name “Intelligent” on a d/b/a basis.

² See Comments of AT&T, GN Docket No. 12-353, at 11-12 (filed Jan. 28, 2012); Comments of Verizon and Verizon Wireless, GN Docket No. 12-353 at 38-39 (filed Jan. 28, 2013).

³ See Comments of TEXALTEL, GN Docket No. 12-353, at 5 (filed Jan. 28, 2013); Comments of Sprint Nextel Corporation, GN Docket No. 12-353, at 30-31 (filed Jan. 28, 2013) (explaining that while many ILECs have been providing IP voice services for some time, they still refuse to exchange voice traffic on an IP basis); Comments of Cablevision Systems Corporation, GN Docket No. 12-353, at 5 (filed Jan. 28, 2013) (“[t]he facts are clear that market forces

carriers that have not already deployed IP technology, or have not deployed it on a ubiquitous basis, object that a regulatory mandate to adopt IP technology inappropriately forces substantial capital expenditures by carriers that may have higher priority uses for that capital.⁴ And above all, public interest and other groups point out the importance of continued interconnection, and other PSTN obligations, to ensuring that consumer and governmental constituencies continue to receive ubiquitous service during and after the IP transition.⁵

In general, Inteliquent believes that carriers should be able to invest in the transition to IP infrastructure based on their own assessments of when it is economically appropriate to make the investment for that transition, rather than based on regulatory mandates. Thus, Inteliquent respectfully believes that it would not be appropriate at this time for the Commission to set a “date certain” to “discontinue TDM-based services,” as AT&T suggests.⁶

alone have not been able to overcome ILECs’ consistent refusal to interconnect in IP on reasonable terms” and “any relaxation of ‘legacy’ ILEC regulations in the requested proceeding that weakens interconnection obligations would therefore risk harming consumers and competition”); Comments of Cbeyond *et al.*, GN Docket No. 12-353, at 11 (filed Jan. 28, 2013) (“market forces alone will *not* result in negotiated SIP interconnection agreements because incumbents have no rational incentive to interconnect with competitors” and “[t]his is evidenced by the fact that AT&T has refused Cbeyond’s request for SIP interconnection for the exchange of local voice traffic”) (emphasis in original); Comments of XO Communications, LLC, GN Docket No. 12-353, at 23 (filed Jan. 28, 2013) (AT&T has resisted “to allow XO access to its ILEC network via a managed IP interconnection arrangement”).

⁴ See Comments of CenturyLink, GN Docket No. 12-353, at 3 & 9-10 (filed Jan. 28, 2013). See *infra* note 7.

⁵ Comments of Public Knowledge, GN Docket No. 12-353, at 22 (filed Jan. 28, 2013); Comments of AARP, GN Docket No. 12-353, at 13-24 (filed Jan. 28, 2013); Comments of Harris Corporation, GN Docket No. 12-353, at 1-2 (filed Jan. 28, 2013); Comments of Interisle Consulting Group, LLC GN Docket No. 12-353, at 1 & 3 (filed Jan. 28, 2013); Comments of the National Consumer Law Center, GN Docket No. 12-353, at 3 (filed Jan. 28, 2013). See also Comments of New Networks, GN Docket No. 12-353, at 5 (filed Jan. 28, 2013).

⁶ Letter from Robert W. Quinn, Jr., Senior Vice President, Federal Regulatory and Chief Privacy Officer, AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-353 *et al.* at Att. p. 2 (filed Jan. 15, 2013) (“AT&T Jan. 15, 2013 Letter”) (discussing same).

At the same time, the FCC can and should create *incentives* to encourage carriers to migrate to IP infrastructure.⁷ Some degree of regulatory oversight over interconnection also is clearly appropriate, in order to ensure continued universal connectivity and to address the concerns raised by carriers and other interest groups.

Inteliquent believes that the FCC should consider adopting rules to create proper incentives for the transition to IP interconnection, rather than adopting mandatory standards.⁸ At present, TDM interconnection is the *de facto* default for interconnection between carriers, absent a specific agreement to use IP-based interconnection. Although there is no law, rule, or policy establishing a preference for TDM interconnection, and the Commission has previously declared that the duty to negotiate interconnection terms in good faith “does not depend upon the network

⁷ See Comments of Nebraska Rural Independent Companies, GN Docket No. 12-353, at 16-17 (filed Jan. 28, 2013) (“the evolution from TDM-to-IP” occurs in “an incremental rather than wholesale manner” “as funding is available”); Comments of XO Communications, LLC, GN Docket No. 12-353, at 15 (filed Jan. 28, 2013) (“each carrier should individually determine when and how quickly it incorporates IP technology further into its networks to meet customer needs”); Comments of Cox Communications, Inc., GN Docket No. 12-353, at 15 (explaining that the decisions to upgrade to IP “have been driven, as they should be, by normal business incentives, such as capital and expense considerations and the ability to offer new and innovative services that customers want” and that “[i]t is much more efficient, both as a matter of use of limited resources and as a matter of economics, to allow market incentives to operate in the normal fashion”); Comments of CenturyLink, GN Docket No. 12-353, at 3 (filed Jan. 28, 2013) (“the Commission should establish flexible guidelines for the transition to IP, rather than one-size-fits-all standards and deadlines. Each carrier faces unique circumstances and challenges as it migrates its network and services to IP”); *id.* at 10 (“[m]utual self interest will motivate carriers to transition networks to IP as quickly as their network capital budgets will allow”).

⁸ See Comments of the Independent Telephone & Telecommunications Alliance, GN Docket No. 12-353, at 14 (filed Jan. 28, 2013) (“[a]dopting regulatory mandates before industry standards have been established could force providers to develop a patchwork of carrier-by-carrier technical requirements that may not reflect a technologically-neutral marketplace”); *id.* at 16 (the Commission should “clarify areas of regulatory uncertainty to give providers the investment incentives they need to transition to all-IP networks as expeditiously as possible” but not set a “hard date for providers to cease the provision of TDM-based services”); Comments of MetroPCS Communications, Inc., GN Docket No. 12-353, at 4 (filed Jan. 28, 2013) (explaining that it is “not asking the Commission to mandate the TDM-to-IP Transition” and that the certain Commission action it proposes “will provide sufficient economic and regulatory incentives to encourage carriers to voluntarily upgrade their networks”).

technology underlying the interconnection,”⁹ there is no clear legal path for a carrier to implement IP interconnection with a carrier that insists on TDM. This uncertain situation is not in the public interest, as the inability to obtain IP interconnection creates a disincentive for carriers to migrate to IP technology. The uncertainty also may encourage gaming of the system, particularly if carriers view the ability to maneuver their rivals into inefficient interconnection arrangements as a potential competitive advantage.

As Inteliquent explained in its initial Comments, Inteliquent and other intermediate carriers already offer carriers indirect interconnection services that can include converting traffic between IP and TDM protocols. There is no doubt these services will remain important to ensuring universal connectivity as originating and terminating carriers evolve to IP networks. As Cox noted, “[i]ndirect interconnection will continue to be important for full connectivity between carriers, particularly during the period when some providers interconnect via IP and others interconnect via TDM.”¹⁰ Thus, indirect “interconnection should continue to be part of the interconnection regime in an IP-based environment.”¹¹ Even AT&T recognizes the importance of indirect interconnection and has stated that “hundreds of thousands of IP networks have interconnected directly or indirectly since the dawn of the commercial Internet.”¹²

⁹ See *In the Matter of Connect America Fund, et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, ¶ 1011 (2011), *pets. for review pending sub nom. In re: FCC*, No. 11-9900 (10th Cir. filed Dec. 8, 2011).

¹⁰ Comments of Cox Communications, Inc., GN Docket No. 12-353, at 12 (filed Jan. 28, 2013).

¹¹ *Id.* at 13. As the National Cable and Telecommunications Association (“NTCA”) explained, “it is not efficient for every competitive provider to directly interconnect with every other competitive provider and consequently indirect interconnection (and incumbent LEC transit services that facilitate such arrangements) remain critical to the development of competition.” Comments of NTCA, GN Docket No. 12-353, at 11 (filed Jan. 28, 2013).

¹² AT&T Jan. 15, 2013 Letter at Att. p. 5. See also Comments of TechFreedom, GN Docket No. 12-353, at 6 (filed Jan. 28, 2013) (discussing same).

The existence of intermediate services that can both facilitate indirect interconnection and provide TDM-to-IP conversion gives the Commission a powerful tool to promote the transition to IP infrastructure, without imposing an inflexible mandate that carriers adopt IP technology regardless of economic efficiency. Specifically, the existence of these services would allow the Commission to require that *all* carriers provide IP interconnection to other carriers (thus addressing the concerns of carriers that wish to connect on an IP basis), without imposing a mandate that carriers offer such interconnection directly (thus addressing the concerns of carriers that, for various reasons, do not wish to offer such interconnection directly).

To do this, the Commission should consider adoption of a rule implementing Section 251(a)(1) (which is applicable to all carriers, not just incumbent LECs) confirming that all carriers are required to offer IP interconnection on either a direct or indirect basis. The Commission also should make clear that, if a carrier chooses *not* to offer to direct IP interconnection, and instead requires that such interconnection occur on an indirect basis, that carrier will bear all (or at least the lion's share) of the cost involved with the indirect interconnection.

Although such a rule could be structured in different ways, Inteliquent believes that the rule could be based along the following lines:

- (a) Any telecommunications carrier may request IP-based interconnection with any other carrier for routing of voice traffic between their respective end-user customers;
- (b) The carrier receiving the request may, at its sole option, elect to comply by providing IP-based interconnection on either a direct or an indirect basis;
- (c) If the carrier receiving the request elects direct IP-based interconnection, then the point of interconnection shall be established at a reasonable point, with each side bearing its own costs on its side of the interconnection point;

(d) If the carrier receiving the request elects indirect interconnection, that carrier shall bear the cost of establishing a connection to at least one intermediate carrier that can perform the conversion between IP and TDM network protocols, as well as any recurring costs associated with performing the protocol conversion, for traffic in both directions between the originating and terminating carriers; and

(e) Any carriers may, by mutual agreement, establish interconnection terms and conditions that vary from the provisions of this rule.

Adoption of a rule along these lines clearly would provide incentives for carriers to offer direct IP interconnection, as they would bear the costs involved in delivering traffic to other carriers through indirect interconnection. At the same time, this rule would give carriers the flexibility to invest in IP infrastructure based on their own assessments of appropriate capital allocation and customer need, rather than based on regulatory mandates.

Respectfully submitted,
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